

Congress of the United States

House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC

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August 1, 2023

The Honorable Julie A. Su
Acting Secretary of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Secretary Su,

The Select Subcommittee on the Coronavirus Pandemic (Select Subcommittee) is investigating the development and implementation of vaccination policies and mandates.

On November 5, 2021, the Occupational Safety and Health Administration (OSHA) implemented an Emergency Temporary Standard (ETS) that required all employers with 100 or more employees to require a COVID-19 vaccine or for employees to be tested weekly.¹ It also required unvaccinated employees to wear face coverings when indoors.²

The ETS mandate was breathtaking in its scope, applying to approximately 84 million American employees and preempting any contrary states laws.³ In a news release announcing the ETS, the Secretary of Labor stated, “[m]any businesses understand the benefits of having their workers vaccinated against COVID-19, and we expect many will be pleased to see this OSHA rule go into effect.”⁴ Many businesses and groups covered by the ETS were *not* pleased to see the rule go into effect as scores of states, businesses, and trade groups quickly filed lawsuits challenging the ETS.⁵ After consolidating the myriad lawsuits in the lower courts in which enforcement of the ETS was stayed and then unstayed, the Supreme Court stayed enforcement of the ETS in January 2022, two months after OSHA announced it.⁶

We are investigating how the mandates came to be to inform Congressional action should there be a future pandemic. As such, to assist the Select Subcommittee in this investigation, we request the following documents and information as soon as possible, but no later than August 15, 2023:

¹ Occupational Safety and Health Administration, Fact Sheet: Workers Rights under the COVID-19 Vaccination and Testing ETS.

² *Id.*

³ *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety and Health Admin.*, Nos. 21A244 and 21A247, 595 U.S. ____ (Jan.13, 2022).

⁴ News Release, Department of Labor, U.S. Department of Labor Issues Emergency Temporary Standard to Protect Workers from Coronavirus, (Nov. 4, 2021).

⁵ *Nat'l Fed'n of Indep. Bus.*, 595 U.S. ____.

⁶ *Id.*

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1. All documents and materials the Department of Labor (DOL), including but not limited to the Office of the Secretary of Labor (OSL) and OSHA, considered or relied upon prior to OSHA promulgating the ETS on November 5, 2021, including a list of non-governmental experts consulted regarding the ETS.
2. All documents and communications between or among employees or contractors of DOL, including but not limited to OSL and OSHA, regarding the November 5, 2021 ETS.
3. All documents and communications between or among employees or contractors of DOL, including but not limited to OSL and OSHA, and employees of the White House, including any personnel within the Executive Office of the President, regarding the November 5, 2021 ETS.
4. All documents and communications between or among DOL, including but not limited to OSL and OSHA, and OSHA regulated entities, including trade or advocacy organizations representing OSHA regulated entities, regarding developing, promulgating, and implementing the November 5, 2021 ETS.
5. All drafts and versions of the November 5, 2021 ETS.

The Select Subcommittee on the Coronavirus Pandemic is authorized to investigate “the implementation or effectiveness of any Federal law or regulation applied, enacted, or under consideration to address the coronavirus pandemic and prepare for future pandemics” and “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus pandemic” under H. Res. 5.

Thank you for your prompt attention to this important matter.

Sincerely,



Brad Wenstrup, D.P.M.

Chairman

cc: The Honorable Raul Ruiz, M.D., Ranking Member
Select Subcommittee on the Coronavirus Pandemic